

FILED

AUG 24 2000

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION
PEGGY B. DEANS, CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF N.C.

IN RE:

CASE NO.

INTERNATIONAL HERITAGE, INC. and

98-02675-5-ATS

INTERNATIONAL HERITAGE,
INCORPORATED,

98-02674-5-ATS

DEBTORS

ORDER ALLOWING FIRST INTERIM FEE APPLICATION FOR SPECIAL COUNSEL

The matter before the court is the first interim application for compensation for services rendered by special counsel filed by the chapter 7 trustee, Holmes P. Harden, on behalf of Lewis & Roberts, PLLC. Acstar Insurance Company filed an objection, and a hearing was held in Raleigh, North Carolina on August 23, 2000.

International Heritage, Inc. and International Heritage, Incorporated (together "IHI") filed petitions for relief under chapter 7 of the Bankruptcy Code on November 25, 1998, and Holmes P. Harden was appointed trustee in each case.

On February 9, 1999, the court approved Mr. Harden's application to employ Lewis & Roberts as special counsel to pursue litigation against various insurance companies. The order provided that Lewis & Roberts were to receive a contingent fee of 25% of each recovery. Lewis & Roberts recovered \$1,787,500.00 from Executive Risk Speciality Insurance Company, and the trustee

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requests that Roberts & Lewis be paid \$446,875.00, which is 25% of the total recovery.

Acstar Insurance Company contends that it holds an equitable interest or a security interest in the Executive Risk settlement proceeds in the amount of at least \$805,781.41, but the court has ruled that Acstar has no interest in the funds. Acstar has appealed this determination to the District Court for the Eastern District of North Carolina, and according to Acstar the entire settlement proceeds should remain in trust pending the final determination of its rights in the funds.

The court finds that if Actstar prevails on its claim, the settlement provides adequate funds to pay both Acstar's claim and to compensate Lewis & Roberts. Additionally, the court finds that the requested compensation is fair and reasonable, and the application is **ALLOWED**. This order shall be effective 10 days from this date. If Acstar appeals from this order, the court will not grant a stay pending appeal and it would not be necessary for Acstar to make its initial request for a stay pending appeal to the bankruptcy court as would otherwise be required by Rule 8005 of the Federal Rules of Bankruptcy Procedure.

SO ORDERED.

DATED: 24 AUG 2000



A. Thomas Small
Bankruptcy Judge

U.S. Bankruptcy Court for the Eastern District of North Carolina

CLERK, U.S. BANKRUPTCY COURT

POST OFFICE BOX 1441

RALEIGH, N.C. 27602-1441

In Re a Petition for Relief under Chapter 7 of Title 11, U.S. Code, filed by or against the below-named Debtor on November 25, 1998:

DEBTOR: INTERNATIONAL HERITAGE, INC. of C/O MAYFLOWER CAPITAL, LLC, 2626 GLENWOOD AVENUE, SUITE 100, RALEIGH, NC 27608; SSN: N/A, EIN: 56-1921093

CASE NO. 98-02675-5-ATS

ORDER AND NOTICE
BY THE COURT

CERTIFICATE OF MAILING

I am a regularly appointed and qualified deputy clerk in the office of the clerk, in and for said court and district, and I hereby certify that a copy of the attached document was mailed in a postage prepaid envelope addressed to the following at their respective addresses, by placing said envelope in the regular mail in Raleigh, NC, on this date.

DATED: 24 AUG 2000

Anne Moell

DEPUTY CLERK

INTERNATIONAL HERITAGE, INC.
C/O ~~MAYFLOWER CAPITAL, LLC~~ *Terri L. Gardner*
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AB
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